

cannot be controverted, that Nootka Sound had been previously discovered and visited by another European Power; in which event, by the very terms of his instructions, Cook was prohibited from taking possession. He found in the iron, the tools, the brass ornaments, the silver spoons, "traces and evidences" that the Spaniards had been there. Under these circumstances, he literally obeyed his instructions, took in a supply of "wood and water," and, although he remained there from March 29 to April 26, he gives no intimation of having taken possession in the "name of his majesty," as he subsequently did when he had proceeded further north. In June following, in latitude $61^{\circ} 30'$, he discovered the mouth of a large river, which, after his death, received his own name. Believing this "river capable of extensive inland navigation," Cook sent Mr. King to the land, "there to display the flag, and take possession of the country and river in his majesty's name." Having performed this idle ceremony, the expedition prosecuted its northern voyage, in which we have no interest to accompany it. Cook never returned to this part of the coast. We have the opinion of the British ministry of the validity of the title acquired by Cook at this place, in the fact that in 1825 they admitted the Russian possessions to extend as far south as $54^{\circ} 40'$.

We have thus seen that Captain Cook first touched the American shore in the spring of 1778, and could thus acquire no right of possession adverse to that of Spain, whose vessels had visited the same point four years before. If the British, by raising their flag and other ceremonies, acquired a valid title to the country on Cook's river, the Spaniards had, three years before, acquired a title equally valid, by the performance of similar ceremonies, to the territory of Port Remedios, in latitude 57° . The title of Spain was at this period unquestionably better than that of Great Britain. Has anything occurred since to deprive Spain of this advantage? The British ministry contend that, by the surrender of the territory under the stipulations of the convention of Nootka Sound, the title of Spain was transferred to Great Britain. If this reasoning be worth anything, it is only upon the admission that the title of Spain thus acquired was good; for if bad, no right would have been acquired under it. It is necessary to look into the act of surrender by Spain, to ascertain the extent of the British right under it; for they can claim no more territory than was actually surrendered. In other words, the title of Spain remains good to all her territory not surrendered. The surrender was made by virtue of an order from Count Florida Banca, dated May 12, 1791. The following extract describes all that was to be restored: "You will give directions that his majesty's officer, who will deliver this letter, shall immediately be put in possession of the buildings and districts or parcels of land which were occupied by the subjects of that sovereign in April, 1780, as well in the port of Nootka Sound or of St. Lawrence, as in the other, said to be called Port Cox, and to be situated about sixteen leagues distant from the former, to the southward; and that such parcels or districts of land, of which the English subjects were dispossessed, be restored to the said officer." It will be seen how cautious Spain was in so wording this order as to exclude the presumption of any right of dominion in the Crown of Great Britain, and confining it to the possession of certain tracts or parcels of land by British subjects. The British subject was Meares, who gives us the extent of his grant in the following words: King Maquinna "most readily consented to grant us a spot of ground in his territory, whereon a house might be built for the accommodation of the people we intended to leave behind." This looks very little like an intention on the part of the British to take permanent possession of the country; and that Meares himself considered it a temporary establishment only, is clear from his having promised Maquinna, that when they finally left the coast, he should "enter into full possession of the house and all the goods thereunto belonging." It is a little doubtful whether the house were ever built: but if it were, then the surrender of this temporary house and lot to a British subject is to give title in the British Crown to the whole of that coast, for many degrees of latitude.

Captain Vancouver was sent to receive the surrender, by Señor Quadra, putting the same construction upon the letter of Count Florida Banca which it has received from the committee, viz. that he was to surrender only the particular parcel of land occupied by Meares, and Vancouver contending for the whole territory adjoining